

Florida Sales Tax Exemption and Refund Opportunities for the Petroleum Industry

By: Jerry Donnini

Growing up and helping out in my family's business that has owned, operated, and distributed petroleum in South Florida for more than over 30 years, I am always on the lookout for new tax savings opportunities that are applicable to this industry. Over the past few weeks, two innovative refund strategies have made their way across my desk that I thought were worth sharing with the group.

The first was a new law enacted by our State Legislature this month. Specifically, section 212.08(7)(hhh), Florida Statutes, provides for a refund on previously purchased or an exemption on newly purchased equipment for "renewable energy technologies." This law is distinct yet similar to an exemption that expired in 2010. As many petroleum company owners may recall, many slow moving companies did not enjoy the refund money because the fund ran dry rather quickly. The new law goes into effect on July 1, 2012, and allows for an exemption on equipment that is purchased to distribute biodiesel (B10-B100), ethanol (E10-E100), and other renewable fuels. Similar to the 2010 exemption, the new refund is limited and will be awarded on a first come first serve basis. Therefore, if you company or your client thinks it is entitled to a refund, file it quickly! For a more detailed explanation of the refund please visit <http://www.floridasalestax.com/Florida-Tax-Law-Blog/2012/June/FL-LEGISLATION-ALERT-RENEWABLE-FUELS-EQUIPMENT-S.aspx>.

The second and more creative refund/exemption opportunity relates to two recently filed cases in Leon County. According to the filed cases, the two petroleum companies purchased "storage tanks, blending, piping, monitoring and delivery/dispensing systems and equipment [to] blend, filter, dispense and sell gasoline" at its locations. While it is difficult to ascertain exactly what type of equipment was purchased, it appears from the record that the equipment blends regular and premium-grade fuel to create a mid-grade product at the time the fuel is pumped by the customer. From a legal perspective, if the equipment was purchased to be 1) used primarily for the control of pollution and 2) is used manufacturing or producing gasoline for sale at a fixed location, then an exemption applies.

It appears from the court documents that the equipment is used for the control of pollution because the equipment was required and subject to inspection by the Florida Department of Environmental Regulation. Whether the equipment manufactures or produces gas is slightly more grey. I have spoken to several service station owners and they have all told me that that equipment exists that mixes different fuel grades on location, which may qualify as manufacturing or producing a distinct product. I am interested to hear any feedback anyone may have on this matter and if you have any questions or would like additional information

please do not hesitate to contact me. Please also visit our blog if you are interested in a more thorough analysis of the cases at <http://www.floridasalestax.com/Florida-Tax-Law-Blog.aspx>.

About the author: Mr. Donnini is a Florida Attorney and an associate in the law firm Moffa, Gainor, & Sutton, PA, in Fort Lauderdale, Florida. Mr. Donnini's primary practice is Florida tax controversy. Mr. Donnini's family has been in the petroleum industry in South Florida for over 30 years. Jerry is also currently pursuing his LL.M. in Taxation at NYU. If you have any questions please do not hesitate to contact me via email at JerryDonnini@FloridaSalesTax.com or at 954-642-9390.